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MAR 06 2009

**OFFICE OF PETITIONS**

In re Application of :  
Are Borgesen : DECISION ON PETITION  
Application No. 10/596,289 :  
Filed: June 8, 2006 :  
Attorney Docket No. 08-145 :  
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the non-final Office action mailed April 14, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on July 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$810.00, and (3) an adequate statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,175.00, five-month extension of time fee submitted on November 25, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card in due course.

Additionally, the request for the change in power of attorney has been accepted and the Notice enclosed. Further, the request for change of correspondence address has been accepted.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3748 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/596,289	06/08/2006	Are Borgesen	TIDL0101PUSA

24124  
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**CONFIRMATION NO. 5000**

**POA ACCEPTANCE LETTER**



OC000000034837398

Date Mailed: 03/04/2009

**NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 11/25/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jolszewski/

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Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101